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OF THE
BEHAVIOUR
Of the Late
EARL of *KILMARNOCK*.



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B E H A V I O U R

Of the Late
EARL of *KILMARNOCK*,

After his S E N T E N C E, and on the Day of
His E X E C U T I O N.

By J A M E S F O S T E R.

W I T H
A N A P P E N D I X,

C O N T A I N I N G
Several A U T H E N T I C P A P E R S.

L O N D O N :

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any Part of it, will be prosecuted as
the Law directs.*

A N
A C C O U N T
O F T H E

B E H A V I O U R of *WILLIAM* late
Earl of *Kilmarnock*, &c.

THE first access, I had to the late unhappy Lord *Kilmarnock*, was on *Thursday* the seventh instant in the evening, very soon after the order for my admittance was brought to General *Williamson*. And I well remember, that I introduced my *serious* discourses with him in words to this effect--- That being desired to assist him, in his preparation for the important and awful scene that was before him, I could not decline, however it might shock my nature, such a necessary act of *humanity*; that, within the *scope* and *limits* of my character, I readily devoted my utmost services to him: But that it would be absolutely *indecent* in me, to attempt to meddle with the *civil* part of the affair between the Government and him, un-

less I was *properly* called upon ; and then I would fairly and impartially declare the truth --- That I took it for granted, from his Lordship's sending for me, that he would allow me to deal *freely* with him, and did not expect to be *flattered*, nor to have the malignity of his crimes *disguised* or *softened* : For it was my opinion, that the wound of his mind, occasioned by his publick and private vices, must be probed and searched to *the bottom*, before it could be capable of receiving any remedy ; and that if he disapproved of this method, I thought I could be of *no* service to him, and desired to be excused from any further attendance.'

His Lordship allowed --- ' That it would be *unbecoming* in me to interfere in things remote from my office ; that he did not expect, nor would ever urge, any thing I thought *inconsistent* with it ; that simplicity and freedom of speech were the only things that could do him good ; and that it was now no time to prevaricate with me, and play the hypocrite with God, before whose tribunal he might so shortly appear.'

After this general introduction, I thought the next step necessary to be taken, in order to awaken him thoroughly to a due sense of his guilt, was, to persuade him to look upon himself as a criminal, whose sentence of death was scarce more *just*, than the execution of it was *inevitable*. Self-preservation, and the love of life
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(it was obvious) were not only strong principles in human nature, but, to one in his circumstances, very *insinuating* and *dangerous* principles. I therefore pressed him earnestly --- ‘ Not to suffer himself to be amused by vain and deluding hopes. I told him, that by what I could collect, from the *general* sense of the people and the *public* call for justice, there was no probability of his obtaining a *reprieve*; and that while his mind was *suspended* between hope and fear, it must be proportionably *distracted*; and, of consequence, unable to *recollect* and *exert* its whole strength and force in such a manner, as was necessary to produce in him that deep contrition, and bitter remorse, for his heinous and aggravated crimes, and that true temper of penitence, which alone could recommend him to the Divine Mercy.’ To this he replied --- ‘ That indeed when he consulted his *reason*, and argued *calmly* with himself, he could see no probable ground on which to expect mercy; but still the hope of life would often *intrude* itself: And he was afraid, that this might be attended with another ill consequence besides what I had mentioned, *viz.* That when the warrant for his execution came down, he should not only have the *terror* of the *sentence* to conflict with, but also the *disappointment* of his too fond and flattering *hope*. He therefore assured me, that he endeavoured, to the utmost of his power, to *repel* it; and that the main bent of his thoughts

thoughts was towards the infinitely more momentous concern of perfecting his repentance, and preparing for death and eternity.'

As to the great crime of his rebellion, for which he had merited and justly received the sentence of death, he expressed himself without the least hesitation or reserve. He assured me, ' That, in the hours of his confinement and solitude, he had felt it lye as a severe and heavy load upon his soul ; and particularly upon these two accounts, which were *peculiar* aggravations of his guilt : That he had been a rebel against his *conscience* and inward principles ; and in violation of his *oath* solemnly and often repeated.'

To this I replied, ' That indeed the breach of his oath, one of the most sacred of all religious and social ties, and acting in direct repugnance to those *revolution principles* which he had formerly professed, and from which in *sentiment*, he never swerved, were high aggravations of his wickedness, and should strike his mind with the deepest remorse and horror : But that he ought to extend his reflections *farther*, in order to take in the *whole compass* of his guilt with all its dreadful circumstances ; that so foul a crime could not be sincerely repented of, without the bitterest contrition and humiliation of soul ; in-order to which, *a full view* of its malignity, both in its nature and consequences, was absolutely necessary. I therefore represented to him, ' that the rebellion in which he had rashly engaged, was entirely *unprovoked* and
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ungrateful, and, of consequence, most *unjust* and *unnatural*; that the King's right to the crown was, even in his Lordship's own opinion, *incontestable*, and his government had ever been *mild* and *gracious*; and that, in the same period of time, the subject had never enjoy'd since the conquest, that is for near 700 years, such a course of *uninterrupted* and *uncontrouled* liberty, as since the accession of the present Royal Family to the throne.' I told him farther, 'that, by joining the rebels, he had not only attack'd the *personal rights* of the King and his illustrious house, but endeavour'd to destroy the *national* happiness, and frustrate the hopes of *posterity*; that he had been *instrumental* in diffusing consternation and terror through the land, obstructing commerce, giving a shock to the publick credit, in the depredation and ruin of his country; and ought to consider himself as an *accessary* to innumerable *private* oppressions and murders:'. His Lordship added, with a sensible concern, *Yea, and murders of the innocent too!* The whole of this charge he readily admitted, and frequently with tears, and offering up short fervent petitions to God for mercy.

But when I mentioned to him the *consequences* of the rebellion, that its natural tendency was to the utter subversion of our excellent free constitution, to extirpate our holy religion, and introduce the monstrous superstitions and cruelties of popery, and the unbounded mischiefs of arbitrary power;---Here he *at first* hesitated,
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and did not seem to have so clear a conviction, as I thought was necessary to render his repentance compleat. He said, ' he had consider'd this as a thing *possible*, or, at most, as a remotely *probable* consequence, but had not looked upon it as so closely *connected* with the success of the rebellion, as was generally imagined. That, as far as he could learn from all the conversations he had with the Pretender's son, and all the knowledge he could gain of his sentiments, he was not a person that had a *real* concern for any outward *profession* of religion; he thought therefore, that, to introduce popery, he would not run the risque of defeating his main design; that the experience, which his pretended family had had of the ill effects of making any *violent* attacks upon the constitution and liberties of this country, would make him cautious and deliberate; or hoped, that the generous invincible spirit of *British* liberty would render all such attempts unsuccessful: For that he himself was never, in the utmost heat of his rebellion, a well-wisher to tyrannical power and popery, which *last* he could never embrace, without entirely renouncing his understanding as a man.'

To this I answer'd, ' That I was sorry to find his Lordship had been imposed upon by such *vain* and *fallacious* reasoning; that if what he had said of the *son* was really true, yet the *father*, whose spurious claim he came to assert, was, by all accounts, an inflexible biggot to the *Romish* super-

superstition; that it could not be imagin'd, but that the young Pretender also, having been chiefly educated at *Rome*, thought himself under the strongest obligations to promote the same cause; that the *manifesto* he had publish'd was in the same strain with the *declaration* of King *James II.* viz. that he intended to allow to *all* his subjects free liberty of conscience; which, the *protestant* people of *England* plainly saw, was intended to open popish mass-houses, and, under the colour of this indulgence, to bring in a swarm of priests to corrupt and poison the land; that, without doubt, the courts of *France* and *Spain* would never have attempted to support this *usurpation*, without having directly stipulated in favour of *popery*, and for the extirpation of the *protestant* religion, the great support of *British* liberty; that if, through the pusillanimity and consternation of the people, (who, by collecting the 50th part of their force, were able to have trampled down the rebels under their feet, and to have extinguished every spark of this unnatural conspiracy) they should have come into possession of *present* power; yet it could not be imagined, but that the King (who was a great prince in virtue of his foreign dominions, and who would be supported by the *protestant* states of *Europe*, and, in all probability, by the house of *Austria* too, in order to preserve a just balance, and restrain the exorbitant power of *France*)

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must make long and vigorous efforts to recover his *legal* right; that the pretender's government could therefore never be established, without a *French* standing army to insult and awe the nation: Which would only be granted upon condition of our making a *hasty* and *inglorious* peace, betraying the most important and valuable parts of our *commerce*, and seems to render the *sacrifice* of our religion and liberties not only highly *probable*, but absolutely *inevitable*. This is the substance of our conversations upon this head; in the close of which he declared, 'That he saw these consequences in a quite different light from what they had ever appeared to him in before, and sincerely lamented his having any hand in entailing such evils upon his country.' And when I told him, 'That I supposed he had never allowed himself to enter deeply and seriously into the subject;' he said, 'That, in truth, he was not very fond of thinking much about it, but rather inclined to *flatter* and *delude* himself.'

When I asked him, 'what could be his *motive* to engage thus in the rebellion against his conscience, in defiance of God, and in violation of sacred oaths, and, consequently, in contempt of all laws divine and human, all ties of justice and honour.' He answered, 'That the true root of all was his careless and dissolute life, by which he had reduced himself to great and perplexing difficulties; that the exigency of his

affairs was in particular very pressing at the time of the rebellion ; and that, besides the general hope he had of mending his fortune by the success of it, he was also tempted by another prospect of retrieving his circumstances, if he follow'd the pretender's standard. His love of vanity, and addictedness to impurity and sensual pleasure (he said) had not only brought pollution and guilt upon his soul, but debased his *reason*, and, for a time, suspended the exercise of his *social* affections which were by nature strong in him, and, in particular, the *love* of his *country* : So that his rebellion was a kind of *desperate* scheme, proceeding originally from his vices, to extricate himself from the distress of his circumstances. I told him, ' that I hoped he was ready to acknowledge the *wisdom* of Providence, in so settling the train and order of things in the moral world, as that a life of levity and extravagance, naturally led to other the most fatal *extreams*.' And this persuasion would make him *humble* in his present condition, and thoroughly *resigned* to the will of heaven.' He himself went further than this, and said, ' That it was not only a *wise* and *righteous*, but might, to him, be a *good* and *merciful* Providence ; that he had often acknowledged it to God as an unspeakable mercy to his soul, that he did not *fall* at the battle of *Culloden*, quite unreflecting and impenitent ; that if the rebellion had been successful, he should have gone on increasing his *guilt*, and have had

many more oppressions and murders to account for before God ; and that it was most likely, that he would have continued to pursue his old course of guilt and infamy, without ever recollecting himself, or entertaining any *serious* thought of repentance. He said, that he was constantly endeavouring to work himself to greater penitence, and a more compleat temper of resignation, as well knowing that from thence alone his true comfort and rational calmness of mind could spring ; and that he had often made use of these words of *Christ, Father, if it be possible, let this cup pass from me : Nevertheless not as I will, but as thou wilt--* but had sometimes been check'd by this thought, that it was a mixture of *profaneness* with piety, for him who had been so great a sinner, and deserved death, to address himself to God in the same language with his blessed Saviour, which was perfectly innocent.

Besides impressing upon his mind a deep sense of his *publick* guilt, ' I urged him to a sincere recollection of all his more *private* vices. That he should not endeavour to excuse and palliate, but represent them to his mind with all their aggravations ; that the great business of the short time of life, which seemed at present to be allotted to him, should be to soften and humble his soul, and to make his sorrow and repentance for his sins more deep and lively, and acquire a disposition of mind, alienated as much as possible from the love and relish of his former

mer impurities; that without this he could have nothing to *recommend* him to God's mercy, nor any well grounded hope of it; and it would be impossible for him to *enjoy* the spiritual and sublime happiness of heaven, even if he supposed that he might be admitted to *reside* in heaven; that the most effectual method he could take to get a strong detestation of, and aversion to, sin, was to reflect frequently on the malignity, deformity, and horror of it in itself, as a stain to his reason, and the most ignominious depression of his nature, as perverting that wise and beautiful order which God had established in the creation, and destroying that perfection and happiness among reasonable beings, for which he originally formed them; as a contrariety to his pure and spotless excellence, an affront to his supreme authority, a contempt of all his promises of mercy to the penitent, and ingratitude against the best of Beings, to whom he was under the highest obligations, and whose goodness is unmeasurable and infinite. These motives of ingenuity, I represented to him as the only sources of a genuine contrition and repentance, and not the gloomy prospect of a violent death here, nor even the fear of more terrible punishment hereafter. I exhorted him to let these considerations be, as far as was possible, always before him: For, that according to the *evidence* he had of his deep and unfeigned penitence, and in *proportion* to that alone, could he have any solid expecta-

expectation or hope of a pardon. I observed to him, that among the vices, which he had been guilty of by his own confession, was the sin of *impurity*: Upon this head, therefore, I desired him to take particular care to examine and purge himself, as a vice which, of all others, more immediately defiled the mind, and rendered it averse to offices of virtue and piety; and to consider, that some *impurities* were of a much more malignant and heinous nature than others, grosser violations of our neighbours right, and vastly more injurious in their consequences.' The result of our conversations on this subject, at different times, was this, that he found himself, as he told me, 'more and more weaned from the love of *sensual* pleasures, and hoped that his *remorse*, on account of his past irregularities, proceeded from an inward detestation of them, and a sense of gratitude and duty to God.'

He desired me to administer the Sacrament of the Lord's Supper to him, which at first I *declined*, without absolutely refusing it. And my reason was this, that I chose not to do it till I had authority from General *Williamson* to tell him, *that there remained no hope of his life*. Then I thought I should have clearer evidence, if he still continued in the same *ingenuous* temper, that his confessions and repentance were *sincere*; and I consented at last only upon this condition, that he would allow Mr. *Fowler*, the gentleman-goaler of the *Tower* to be present,

sent, and renew his acknowledgments before him. To this he made no objection ; and the questions which I proposed to him, together with his answers, were in substance as follows.

Do you acknowledge, with deep penitence and contrition, the *guilt* of the late unprovoked unnatural and wicked *rebellion* in which you engaged ; the *share* you had, by being involved in it, in the oppressions and murders of your fellow subjects, and the desolation and spoil of your native country ; your great guilt in rebelling against your *just* and *lawful* King, and against a *mild* and *gracious* Government ? *I do.*

Are you ready to declare, that it is your stedfast resolution to *persist* in this humble confession to the last, and to pray for the prosperity of King GEORGE, the establishment of his royal house, and the welfare and peace of your country, with your dying breath ? *I readily declare this to be my steady purpose.*

Do you also, with shame and humiliation before God, acknowledge the irregularities and excesses of your *private* life ; and will you endeavour to form your mind to a deeper and deeper repentance for both your publick and more personal crimes ? *This is my resolution, which I will adhere to by the help of God.*

Be pleased to declare, that you expect *no* benefit at all from receiving the sacrament, if your remorse and penitence be not *sincere*. *I do not think, that it will be of any service to me.*

I desire, in the last place, that you will also declare, what of your own accord you have mentioned to me before --- That you consider yourself, in this act of receiving the sacrament under your present critical and melancholly circumstances, as making an implicit *appeal* to God, that you expect no *mercy* from him, if your confessions are feigned and hypocritical; and that you look upon the death of Christ (which you are now solemnly to commemorate as a ratification of God's covenant of mercy to unfeigned humble penitents, and *to them alone*) as both a strong encouragement and motive to you, to endeavour to *strengthen* and *perfect* your repentance. *I consider the whole of this in the light, in which it has now been represented.*

I shall only add under this head, that *all* the confessions of this unfortunate Lord appear'd to me to be free and ingenuous: He never scrupled the questions that were asked him, nor took the least time to meditate and prepare an answer. His confessions, likewise, were perfectly consistent and uniform, and never varied as to the general substance; and in no other circumstance than this, which will be thought perhaps to redound to his honour, that he continued to the last recollecting and searching himself, and declaring particular incidents as they occurred to him, which tended, upon the whole, not to the *extenuation*, but to the *heightening* of his crime. And a few days before his death he said, ' that he thought he should rather prefer

fer the speedy execution of the sentence, which was justly passed upon him, than a longer continuance in life, if he was sure that he should be again entangled by the snares and temptations to which he had formerly yielded: What would really be the *event*, if he was let loose among the gaities and pleasures of life, he did not certainly know, and somewhat dreaded; but in the *declaration* he had made, he thought he found himself *clear*.'

Heavy charges of *inhumanity* and *cruelty*, I told him, were spread among the people concerning him; and by many believed. I desired him therefore to be honest and free in clearing his conscience of such a load of most unnatural guilt, by answering to the following interrogations, which included in them the substance of these charges. And I here subjoin, for the perusal of the publick, the questions as I proposed, and have now transcribed them from a paper written before I went to the *Tower*, and his distinct reply to each.

Was your Lordship present in the Pretender's council at *Inverness*, or any *other* place, before the battle of *Culloden*, where it was proposed to destroy the *prisoners* taken by the rebels?

I can most sincerely and freely answer, No.

Was you ever present in council where this was proposed? *No.*

Did you ever *move* for such an order? *No.*

Did you ever *sign* such an order? *No.*

Did you ever *carry* an order of this kind to the *French* general *Stapleton*? Did you ever, in his presence, *approve* of such an order? Did you at any time, hearing it had been communicated to him, encourage and excite him to the *execution* of it? To all which he answer'd in the same manner, *No*.

Did you ever know, or hear, that such a thing, or an order to give no quarter, was debated, or agreed to, or signed in the rebel army, till you was taken by the King's forces, and a prisoner at *Inverness*? Or do you know yourself guilty of any cruelties, by you authorized or committed, against the King's soldiers or subjects taken *prisoners* by the rebels? The answer to both these questions was the same as *before*.

As to what passed in the church of *St. Ninians*, he told me, that he knew nothing at all of it till, upon the retreat of the rebel army, he was at some distance from *Stirling*, where he had been confined to his bed by a fever; that the first notice he had of it, was the noise of blowing up the church, of which he could never get any but an indistinct and confused account; that it was represented by the rebels as *accidental*; but concerning this he could certainly say nothing, only *as to himself* he solemnly declared, that he had no *knowledge* before-hand of, nor any *concurrence* in a design'd act of cruelty. I told him however, that he was charged with an instance of barbarity to

the prisoners confin'd in the church at *Inverness*. And the account which he gave of the fact, is as follows — That there were orders issued by the Pretender's son, to strip them of their cloathing, for the use of some of the highland rebels; that the warrant for executing this order was sent to him; that he did not enter the church in person, but committed the execution of it to an inferior officer; that the prisoners, at first, refused to submit, upon which there was a second order, and their cloaths were taken from them; but that in the mean time, the person, stiled the *French* ambassador, represented to him, that this was an outrage, which he thought scarce justifiable by the law of nations, and the rules of war; he therefore, while the cloaths lay in heaps, with proper centinels over them, in the streets of *Inverness*, went up to the Pretender's son, and represented the matter in the light in which the *French* ambassador had stated it, and according to what were his own sentiments likewise; upon which, as it was feared that such usage might make an ill impresson upon the minds of the people, the cloaths were again restor'd; and this, he averred to me, was the whole of the truth, as far as it ever fell under his knowledge.

For myself, I must do this unhappy criminal the justice to own, that he *never* appeared, during the course of my attendance upon him, to be of any other than a soft benevolent disposition. His behaviour was always remarkably mild

and temperate. I could discern no resentment, no disturbance or agitation in him. This indeed I feared (as persons in his melancholy circumstances are generally apt to think, that they ought to have the *preference* in cases of reprieve or pardon) when I was first informed of Lord *Cromarty's* reprieve; and therefore in the morning before I waited on him, I prepared myself to quiet and mollify his mind. But one of the first things he said to me was, that he was extremely glad that the King's mercy had been shown to Lord *Cromarty*. My Lord, says I, I hope you do not think you have any injustice done to *you*? His answer was, Not the least: I have *pleaded* guilty, I entirely *acquiesce* in the justice of my sentence, and if mercy be extended to another, I can have no reason to *complain*, when nothing but *justice* is done to me. I do not believe, that my not being reprieved is owing to any defect of *clemency* in the King, who, by all the accounts I ever receiv'd, is a very *merciful* prince; nor that it springs from any particular *resentment* or *prejudice* against me, either in his Majesty, or in the Duke; but from some *distinction* that they thought there was in the circumstances of Lord *Cromartie's* guilt and *mine*, or else from the publick demand for justice, which made it unfit that *two* out of three should be reprieved. From this way of thinking and discoursing, he never, to my knowledge, varied to the last.

I must add here another, and I think, a great and unquestionable instance of Lord *Kilmar-nock's* ingenuity. He had been charged, and he imagined without a just foundation, with having uttered a falsehood, when he said in his speech at the bar of the House of Lords, that *it was very easy for him to have escaped*. This he still thought was true upon the rebel army's *first giving way*, as the greatest part of that body actually *did* escape, with whom he was joined. But after he had *separated* himself from them, and was advanced any considerable way towards the King's troops, he believed that his escape was *not* practicable. But tho' he hoped that this would clear him from the imputation of having wilfully prevaricated in the *instance* already mentioned; yet he owned, that in *another*, induced by the love and strong desire of life, he had grossly falsified. The case, as he represented it to me, was thus --- He had asserted in his speech, that 'tho' he could have escaped, he did not choose it, because the consequences, in an instant, appeared to him more terrible, more shocking, than the most painful or ignominious death: And therefore he chose to surrender and commit himself to the King's mercy, rather than to throw himself into the hands of a foreign power, the natural enemy to his country; with whom to have merit, he must persist in continued acts of violence to his principles, and of treason and rebellion against his King and country:' But the real truth was, 'That he
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had no intention at all to *surrender*, and that his only view was to *facilitate* his escape; for that he thought the body towards which he advanced, were not the *King's*, but *Fitz-James's* Horse, and that if he could reach them, by mounting behind one of the *dragoons*, his escape would have been more certain, than, as he was then on foot, it appeared to him in his present situation to be; tho' he did not find his strength or spirits in any considerable degree impaired. This, he thought, as it related to his inward intention only, could not be discovered but by his own confession, nor known to any but God and his own conscience. But he was willing to unburden his soul, and purge it of its most secret guilt; and therefore pressed it upon me in a particular manner, and especially on the very day before he was executed, 'Not to forget to publish to the world this circumstance, because as he had solemnly uttered, before so august an assembly as the House of Lords, a direct and known untruth, he thought, if he should dye without a retraction of it, and a publick acknowledgment of his offence, he must be considered as one, who presumed to appear before the Tribunal of God with a lye in his mouth. And here I cannot help thinking myself bound, in justice to Lady *Kilmarnock*, to declare (and it is most proper to do it in this place, because it will probably find more credit, after such a striking instance of the late Lord *Kilmarnock's* conscientious regard to truth) that, he said to me,

me, tho' she was bred in different sentiments, that he thought her now more inclined to whiggish than jacobite principles. And the Reverend and Honourable Mr. *Home*, and Mr. *Ross* his Lordship's solicitor, desired me to inform the world of another thing, which he had expressly mentioned to them, *viz.* that instead of exciting him to, she had dissuaded him from entering into the late wicked and horrid rebellion.

As the publick will, in all probability, be curious to know what were Lord *Kilmarnock's* sentiments concerning *death*, and the *particular kind* of death, which he expected, in pursuance of his sentence, would be inflicted on him: I shall relate the substance of the discourses, that passed between us, upon these great, and, to the generality of the world, most terrifying subjects.

On *Monday*, the 11th instant, General *Williamson* desired me, in the gentlest terms I could use, to let him know that he had received the order for his and Lord *Balmerino's* execution. I at first declined this ungrateful office, and told him, that I was so shocked at it, that I could not think of delivering the message myself, but would endeavour to prepare the unfortunate Lord, by divesting him as far as I could of all hope of life, for his informing him of it when he came to discharge me from my attendance. And indeed to suppress all glimmerings of such hope was the main drift and bent of my discourse; and I intended to go no farther: but
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finding him in a resigned and calm temper, I told him, as the General was coming up, ' that he would see the vast importance, nay the absolute necessity, of attending seriously to what I had been saying about his diligent and constant preparation for death, by what, as I apprehended, he would soon hear. He immediately asked me, whether the warrant for his execution was come down? I told him it was, and that the day fixed was the *Monday* following. And as, upon this, the General immediately entered the room, I acquainted him, that Lord *Kilmarnock* knew already what he intended to inform him of; that he was therefore at present under no necessity of saying any thing further about it; because the once relating such a melancholy circumstance was fully sufficient.

Lord *Kilmarnock* received this news with the outward behaviour of a man, that knew and felt the importance of the scene of death, but without any marks of disorder, without any unbecoming anxiousness or terror. And to establish and support him in his present quietude of mind, I told him, ' That all mankind were really under *sentence* of death, tho' they knew not the *manner* or *precise time*, when it would be executed; it might be to any one, as soon or sooner than his own; that they not expecting it, nor having such timely and certain notice of it, might die wholly unguarded and unprepared; while he had *warning* and the most *awakening motives* to fit himself, in the best manner possible,
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for this grand and decisive event: He said, ' That he had never been a libertine in *principle*, during all the time that he was most inconsiderate and licentious in his conduct; that he had always firmly believed the great truths of God's being, and Providence, and a future state of rewards and punishments for virtue and vice; and that he had not been involved in the fashionable scepticism of the times, with respect to christianity; that he was therefore naturally concerned, and chiefly concern'd about the consequences of death, in comparison of which he thought the thing itself a trifle; that as to the particular manner of his death, he thought he had no great reason to be terrified, for that the stroke appeared to be scarce so much as the pain of drawing a tooth, or the first shock of the cold-bath upon a weak and fearful temper.' And when General *Williamson*, upon the *Saturday* preceeding his execution, gave him a minute detail of all the circumstances of solemnity and outward terror that would accompany it, he *heard* it with as much show of composure, as a man of a tender compassionate spirit would *read* the account of it, in an instance where he was not personally concerned. He was told, ' That on *Monday*, about ten in the morning, the sheriffs would come to demand the prisoners, who would be delivered to them at the gate of the *Tower*; that from thence, if their Lordships thought proper, they should walk on foot to the

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house appointed on *Tower-hill* for their reception, where the rooms would be hung with black, to make the more decent and solemn appearance, and that the scaffold also would be covered with black cloth; that his Lordship might repose and prepare himself, in the room fitted up for him, as long as he thought it convenient, remembring only, that the warrant for the execution was limited to, and consequently expired at one o'clock; that because of a complaint made by the Lord *Kenmure*, that the block was too low, it was ordered to be raised to the heighth of two foot; that it might be the more firmly fixed, props would be placed directly under it, that the certainty or decency of the execution may not be obstructed by any concussion, or sudden jerk of the body.' All this Lord *Kilmarnock*, without the least visible emotion, expressed his satisfaction in: But when the General told him, that two mourning hearses would be provided, and placed close by the scaffold, that when the head was struck off, the coffins might soon be taken out to receive the bodies; he said, that he thought it would be better for the coffin to be upon the scaffold, for by that means the bodies would be still sooner removed out of sight. And being further informed, that an executioner was provided that would perform his work dextrously, and that he was a very good sort of man; my Lord answered, 'General, this is one of the worst circumstances that you could have mentioned;

mentioned ; I can't thoroughly like, for such business, your good sort of men : For one of that character, I apprehend, must be a tender-hearted and compassionate man, and a rougher and less sensible temper, might perhaps be fitter to be employed.' After this, Lord *Kilmarnock* desired, ' That four persons might be appointed to receive the head, when it was severed from the body, in a red cloth, that it might not, as he had been informed was the case in some former executions, roll about the scaffold, and be thereby mangled and disfigured : For that though this was, in comparison, but a small circumstance, he was not willing that his body should appear with any unnecessary indecency, after the just sentence of the law was satisfied.' I could not perceive, but that he talked of all these particulars with ease and freedom, though the relation of them, I remember, made me tremble ; chiefly because I feared that they would produce in him some perturbation and distress of mind. It is proper for me to add, that when he was told his head would be held up to the multitude, and publick proclamation made that this was the head of a traitor ; he replied, that this he knew to be usual on all such occasions, and spake of it as a thing that was of no significancy in the affair at all, and did not in the least affect him : And I never heard, either before or after he was delivered into the custody of the sheriffs, that he intimated the least concern to have

this part of the dismal ceremony dispensed with. All Lord *Kilmarnock's* friends, who attended him in his last moments, are ready to concur with me in making the same declaration, that we never expected it would have been, and wondered it was omitted.— After the conversation above mentioned between Lord *Kilmarnock* and General *Williamson*, I thought it proper to advise him, to think frequently on the outward *apparatus* and *formalities* that would attend his death; that these circumstances, striking to sense, might impress his mind with horror, and disarm him of part of his resolution, if he was not by reflection thoroughly prepared for the scene; but that if they were habituated to the mind, they would in a great measure lose their influence, and be considered as no more than the *appendages* of a subject vastly more great, and worthy his contemplation. And he declared, on the morning of his execution, ' that he had taken this method with himself, and hoped that these things would discompose him but little, nor create any weakness or indecency in his behaviour. He allowed, with me, ' that they were nothing so terrible in themselves, as the dying after a dispiriting and lingering distemper, in a silent melancholy darkened room, with languid and exhausted spirits, and his friends standing round him, with lively marks of sorrow and anguish in their countenances, expecting and deploring his fate.

I now come to the conclusion of this dismal scene, his behaviour on the day of his execution. I attended him in the morning about eight o'clock, and found him in a most calm and happy temper, without any disturbance or confusion in his mind, and with apparent marks of ease and serenity in his aspect. And that the world may the better judge of the *propriety* of his behaviour from that time to the time of his death, I shall first declare, what his professed sentiments were concerning himself, and the manner in which he chose to die; and then briefly point out what, in my opinion, was the utmost decency of conduct in one in his circumstances, under the impression of such sentiments and principles. I had observed to him, that to affect to brave death, when he justly suffered for his crimes, could have no shew of a true decorum in it; and that to manifest no concern at all, where the consequence was so awful, and the stake infinite, was, in some degree unbecoming even in the best of men; that not to fear at all, where there was great reason to fear, was altogether as absurd, as to be extremely dejected and pusillanimous where there was ground of hope; and that true penitence was always humble and cautious, and not bold and arrogant. He assented to all this, and told me further, That for a man who had led a dissolute life, and yet believed the consequences of death, to put on such an air of daringness, and absolute intrepidity, must argue him

him either to be very stupid or very impious.' He also told me, 'that, though he intirely acquiesced in the justice of his sentence, and thought it his duty wholly to resign himself to the wise and equal disposals of providence, he had still this clog upon his mind, that he could not be sure his repentance was sincere, because it had never been tried.' I answered him, 'that, if he aimed at *certainty* in this grand point, he might unnecessarily perplex and distress his mind; because, for the very reason which he had assigned, *i. e.* for want of proper opportunities to try and prove the truth of their repentance, such a certainty was not attainable by any persons in his condition: I advised him therefore to search seriously and strictly into himself, not suffering himself to be amused and imposed upon in an affair of such infinite importance; and if he found, after making this inquiry, that he had more ground to *hope* that his repentance was sincere, than he had to *fear* that it was insincere, the consequence would be, that he must, upon the whole, have more reason to hope than fear: And this, in my opinion, was the highest pitch, to which I could attempt to raise him.' Let us see now, what kind of behaviour was most just and decent in a person, who, upon this foundation, professed himself to have a preponderance of hope, but mixed with diffidence and fear. It must surely be resigned, but awful; free from an extreme of dejectedness, but not eager and rapid to meet death.

death. Such a considerate calm humility, and tenderness of spirit, would be the only fit behaviour, after having made the professions above mentioned, in one that was but personating a feigned character: The contrary would be condemned in a mere fictitious representation, and therefore cannot be approv'd in the real scene, of death.

And this, which I have shewn was the only *decent*, was, in fact, the true deportment of Lord *Kilmarnock*. He continued all the morning of his execution in the same uniform temper, unruffled, and without any sudden vicissitudes and starts of passion. This remarkably appeared, when soon after I had, at his own desire, made a short prayer with him, General *Williamson* came to inform him, that the Sheriffs waited for the prisoners: For, at receiving this awful summons to go to death, he was not in the least startled, but said, (calmly and gracefully), *General, I am ready; I'll follow you.* At the foot of the first stairs he met and embraced Lord *Balmerino*, who *greatly* said to him, My Lord, I am heartily sorry to have your company in *this* expedition *. From thence he walked, with the usual formalities to the tower-gate, and, after being delivered into the custody of the Sheriffs, to the house provided on tower-hill, with a serenity, mildness, and dignity, that greatly surprised and affected the spectators. And as one of the things that passed there, most worthy the publick notice, was the short inter-
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* These particular words I myself did not hear, but was informed of them by Mr. *Jameson*.

view he had with Lord *Balmerino* : I shall relate the *whole* substance of their conversation, to the best of my remembrance, without addition or diminution ; and, as far as I can possibly recollect, in the *very* words themselves.

B. My Lord, I beg leave to ask your Lordship one question.

K. To any question, my Lord, that you shall now think it proper to ask, I believe, I shall see no reason to decline giving an answer.

B. Why then, my Lord, did you ever see or know of any order, signed by the Prince, [*meaning the Pretender's son*] to give no quarter at the battle of *Culloden* ?

K. No, my Lord.

B. Nor I neither : And therefore it seems to be an invention to justify their own murder, or murderous scheme. (one of the two expressions, I am certain, was made use of.)

K. No, my Lord, I do not think that this inference can be drawn from it ; because, while I was a prisoner at *Inverness*, I was informed by several officers, that there was such an order, signed *George Murray* ; and that it was in the *Duke's* custody.

Lord *George Murray* ! reply'd Lord *Balmerino*, why then, they should not charge it upon the Prince. After this he took his leave, embracing Lord *Kilmarnock* with the same kind of noble and generous compliment as he had used before, but in words somewhat different : My dear Lord *Kilmarnock*, I am only sorry, that I cannot

cannot pay all this reckoning alone; once more, farewell for ever. I have consulted Mr. *Home*, Mr. *Ross*, and Mr. *Jameson*, who were all present at this conference; and are ready to attest, if required, that this is a true account of it.

I then desired Lord *Kilmarnock*, that he would allow me to declare in his name to the Sheriffs, and all persons there present, the substance of the professions and acknowledgments which he had so often repeated to me; and which were more largely contained in a paper, that he had left to be published after his death: and my declaration was in words to this effect: 'Lord *Kilmarnock* acknowledges King *George* to be the only rightful and lawful King of these realms; that he engaged in the late wicked and unnatural *rebellion* against his conscience; he confesses the great guilt of it with deep shame and contrition, and asks pardon, for his offence, of God, his King, and Country; and declares it to be his sincere resolution to pray for the prosperity of King *George*, the establishment of his Royal House, and the peace and welfare of his country, with his dying breath.' To this the unfortunate Lord gave his assent, and signified to the Sheriffs, that the only genuine paper, that he had left behind him, was lodged with me, and committed to my care. The time being now pretty far advanced (as I hinted to his Lordship by the Sheriffs desire) I told him, that after having taken a few minutes to
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compose himself; I thought it would be proper to allow me to pray with him, and then proceed to the scaffold. After this I addressed myself to the spectators of this mournful scene, to join with me fervently in this last solemn office, and in recommending the soul of an unhappy person, who gave so many lively marks of his sincere penitence for the crime of his *rebellion*, to the mercy of God; with which request they all readily complied. I need add nothing more, but that as Lord *Kilmarnock* had often protested, that he would, in his *last moments*, pray for his King and Country, towards the conclusion of my prayer for him, I offered up the following petitions to that purpose; which he had before, in the *Tower*, expressed his intire satisfaction in.

‘ — And we now, from our hearts, and at the
 ‘ the particular desire of thy servant, upon
 ‘ whose account especially we presume at this
 ‘ time to address thy throne, and offer up our
 ‘ united fervent prayers, that thou wouldst pre-
 ‘ serve, bless, and honour our only rightful
 ‘ Sovereign Lord King *George*; that thou wouldst
 ‘ crown him with glory and renown; that in
 ‘ his reign there may be abundance of peace;
 ‘ that his royal progeny may long sit, with
 ‘ lustre and dignity, upon the throne of these
 ‘ kingdoms, undisturbed by rebellions, and the
 ‘ tumults of seditious and violent men; and that
 ‘ our holy religion, and inestimable *British* li-
 ‘ berties, may be transmitted down secure and
 ‘ sacred

‘ sacred to our posterity, even to the latest generations.’

After prayer was ended, Lord *Kilmarnock* took his last farewell of the gentlemen who attended him, in a very affectionate manner ; and went out of the room, preceded by the Sheriffs, and accompanied by his friends. And I am informed of the following particular by Mr. *Home*, that as he was stepping into the scaffold, notwithstanding the great pains he had taken to *familiarise* the outward *apparatus* of death to his mind, nature still recurred upon him : so that being struck with such a variety of dreadful objects at once, the multitude, the block, his coffin, the executioner, the instrument of death, he turned about, and said, ‘ *Home, this is terrible.*’ This expression, so suitable to the awful occasion, must, to all who know the human heart, appear to be nothing else than the language of nature, and was far from being a mark of *unmanly* fear ; being pronounced with a steady countenance, and firmness of voice, indications of a mind unbroken and not disconcerted. His whole behaviour was so humble and resigned, that not only his friends, but every spectator, was deeply moved ; even the Executioner burst into tears, and was obliged to use artificial spirits to support and strengthen him. After having talked with his Lordship a considerable time, to support him in his penitence and resignation, I embraced, and left him in the same calm disposition, having quitted the

scaffold some minutes before his execution. And as to his behaviour afterwards, I refer to the following account, in which, I think, I may thoroughly confide, which was communicated to me by Mr. *Jameson*, who attended him to the last.

‘ Spectators at a distance, not knowing the true cause why the stroke was retarded for some minutes longer than they expected, ascribed it to pusillanimity: But, in reality, that delay was owing to a few trivial circumstances which might have been omitted, had it not been necessary to mention them, in order to vindicate the behaviour of that noble penitent, which was uniformly conducted by the rules of just decorum, from all imputation of unmanly fear in the critical moment.—My Lord’s hair having been dressed in a bag, it took some time to undo it, and put it up in his cap. The tucking his shirt under the waistcoat, that it might not obstruct the blow, was the occasion of some further small delay. But as soon as these preliminaries were adjusted, his Lordship gave the executioner notice what should be the signal, took out a paper containing the heads of his devotion, went forward to his last stage, and decently kneeled down at the block. Whether it was to support himself, or as a more convenient posture for devotion, he happened to lay his hands with his head upon the block; which the executioner observing, pray’d his Lordship to let his hands fall down, lest they should be mangled, or break the blow. Then he was told, that the neck of his waistcoat was in the way; upon

which he rose up, and with the help of one of his friends, (*Mr. Walkinshaw of Scotston*) had it taken off. This done, and the neck made bare to the shoulder, he again kneeled down as before. And what sufficiently shews, that he enjoyed full presence of mind to the last, *Mr. Home's* Servant, who held the cloath to receive the head, heard him direct the executioner, that, in two minutes, he would give the signal. That dreadful interval, to his friends, who were then upon the rack, appeared much longer, but those who measured found it just about two minutes. This time he spent in most fervent devotion, as appeared by the motion of his hands, and now and then of his head; having then fixed his neck on the block, he gave the signal, his body remained without the least motion, except what was given it by the stroke of death, which he received full, and was thereby happily eased at once of all his pain.

Thus deservedly fell, tho' humble and relenting, the late Lord *Kilmarnock*, a sacrifice to the justice of his country—And upon the whole of this dismal catastrophe, there are three reflections that naturally occur to the mind, which I shall but just mention, and leave to the serious consideration of those of every denomination and character, whom they may be found most nearly to concern.

The first is, that tho' this unfortunate Lord lived and died in the publick profession of the church of *Scotland*, it would be unjust to infer from thence, that the principles of that church
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encourage, or have the least tendency to sedition. The contrary is abundantly evident, both from her doctrine and practice ; and especially from the loyal and steady behaviour of her ministers and private members, during the whole course of the late impious rebellion. And the Presbyterians in *Scotland* are cleared, beyond all contradiction, from this scandalous and base imputation, by the honourable testimony which his Royal Highness the Duke of *Cumberland* was pleased to give of their inviolable zeal for the King's person and government, and duty to their country, in his letter to the General Assembly. It is well known that the *Jacobites*, almost universally, are dissenters from the establishment : They are a stain and dishonour both to the *English* and *Scots* churches, and their principles disavowed by both. And indeed the crime of unprovoked and lawless rebellion is branded as an object of detestation and infamy by the publick doctrine of all protestant communions.

To this I beg leave to subjoin another remark of a different kind ; and that is, that we can in no case, from the mere boldness and intrepidity of the sufferer, infer the goodness of his principles : For we may even suppose a man who has acted a part in all the barbarous and diabolical cruelties of the inquisition, to be supported in the hour of death quite above fear, and even to a degree of exultation, by a reflection on his ardent zeal for the suppression of heresy, and for the honour of God, tho' exerted

exerted in such instances, as the God of mercy must necessarily abhor. The *presumptions* of *enthusiasm* are always more forward and assuming than the *confidence* inspired by rational religion. Hence it sprang, that within the compass of a few years after *Mahomet's* death, his successors, with an inconsiderable force, over-ran the whole *Grecian* Empire. They courted, instead of dreading, death, under the delusion of dying *Martyrs* for religion, tho' in truth for a false and bloody superstition.---Nothing can be more repugnant to common reason, nor a grosser reflection on the wisdom and justice of the Supreme Being, than to suppose, that he intended the greatest part of his reasonable creatures for *slaves*; and has established the *lineal hereditary indefeasible* right of *tyrants*, to harass and oppress mankind. Even *transubstantiation* itself cannot, in my opinion, be esteemed a doctrine more absurd or impious.

Let me, in the last place, briefly address myself to persons of *higher* station and rank in life, whether of noble birth, in a situation of influence and power, or placed in such affluent circumstances, as may minister temptations to luxury and excess. To them I would humbly represent, that virtue is their highest dignity, and chief security against staining their honour. I would particularly recommend the virtues of temperance and good oeconomy, lest by giving a loose to wild ambition, or those excesses of vanity and sensual impurity, which
 enervate

enervate reason, and tend, by degrees, to extirpate all the social affections, they find themselves hurried on to such dreadful and fatal extremes, as they cannot now think upon without being strongly alarmed, and starting back with horror. The last excess of social guilt is always contracted by degrees ; inconsideration and luxury are the first steps to it. Of this they have before their eyes, in the present narrative, a most melancholy and moving example. Let them learn from it to retreat from danger betimes, and to recollect and guard themselves.---This is the fervent prayer of one, who is a hearty well-wisher to their true honour and felicity.

JAMES FOSTER.

P. S. I think myself obliged, in justice to General *Williamson*, and, at his desire, to declare, that Lord *Kilmarnock* often testified to me, that he had behaved towards him in a very civil and obliging manner ; that upon the General's having desired, two days before his death, that when he took his leave of him on *Monday*, he would do it in such a manner, as would be an evidence to all present, that he was satisfied with his behaviour ; his Lordship answered, *That I will, General, you may depend upon it, and in such a way too, as is becoming a gentleman, and a man of honour ;* and that Mr. *Williamson* had, from the first, spoke of Lord *Kilmarnock* to me with great esteem and humanity.

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APPENDIX.

NUMB. I.

PAPER delivered by the late Earl
of *Kilmarnock* to Mr. *Foster*, Sun-
day 17th August 1746.

AS it would be a vain Attempt in me to speak distinctly to that great Concourse of People, who will probably be present at my Execution, I chuse to leave this behind me, as my last solemn Declaration, appealing, for my Integrity, to God, who knows my Heart.

I bless God, I have little Fear of temporal Death, though attended with many outward Circumstances of Terror: The greatest Sting I feel in Death is, that I have deserved it.

Lord *Balmerino*, my Fellow-Sufferer, to do him Justice, dies in a professed Adherence to the mistaken Principles he had imbibed from his Cradle. But I engaged in the Rebellion, in Opposition to my own Principles, and to those of my Family, in Contradiction to the whole Tenor of my Conduct, till within these few Months that I was wickedly induced to renounce my Allegiance, which ever be-

fore I had preserved and held inviolable. I am in little Pain for the Reflections which the inconsiderate or prejudic'd Part of my Countrymen (if there are any such, whom my suffering the just Sentence of the Law has not molified) may cast upon me for this Confession. The wiser or more ingenuous will, I hope, approve my Conduct, and allow with me, That, next to doing Right is, to have the Courage and Integrity to own, that I have done Wrong.

Groundless Accusations of Cruelty have been raised and propagated concerning me, and Charges, spread among the People, of my having solicited for, nay actually signed Orders of general savage Destruction; seldom issued among the most barbarous Nations, and which my Soul abhors. And, that the general Temper of my Mind was ever averse from, and shock'd at gross Instances of Inhumanity, I appeal to all my Friends and Acquaintance who have known me most intimately, and even to those Prisoners of the Kings Troops to whom I had Access, and whom I ever had it in my Power to relieve; I appeal in particular, for my Justification as to this justly detested and horrid Crime of Cruelty, to Captain Master of *Ross*, Capt. Lieutenant *Rexon*, and Lieutenant *George Cuming* of *Alter*.

These Gentlemen will, I am persuaded, as far as relates to themselves, and as far as has fallen within their Knowledge or credible Information, do me Justice; and then surely, my Countrymen will not load a Person, already too guilty and unfortunate, with undeserved Infamy, which may not only fix itself on his own Character, but reflect Dishonour on his Family.

I have no more to say, but that I am persuaded, if Reasons of State, and the Demands of publick Justice had permitted his Majesty to follow the Dictates of his own Royal Heart, my Sentence might have been
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mitigated. Had it pleased God to prolong my Life, the Remainder of it should have been faithfully employed in the Service of my justly offended Sovereign, and in constant Endeavours to wipe away the very Remembrance of my Crime.

I now with my dying Breath beseech Almighty God, to bless my only rightful Sovereign King *George*, and preserve him from the Attempts of publick and private Enemies. May his Majesty, and his illustrious Descendants be so guided, by the Divine Providence, as ever to govern with that Wisdom and that Care for the publick Good, as will preserve to them the Love of their Subjects, and secure their Right to reign over a free and happy People to the latest Posterity.

N U M B. II.

Extract of the late Earl of *Kilmarnock's* Letter to his Son Lord *Boyd*.

Dated, *Tower* 17 Aug. 1746.

Dear *Boyd*,

— I must take this Way to bid you farewell, and I pray God may for ever bless you and guide you in this World, and bring you to a happy Immortality in the World to come. I must likewise give you my last Advice. Seek God in your Youth, and when you are old he will not depart from you. Be at Pains to acquire good Habits now, that they may grow up and become strong in you. Love Mankind, and do Justice to all Men. Do Good to as many as you can, and neither shut your Ears nor your Purse to those in Distress whom it is in your Power to relieve. Believe me, you will find more Joy in one Beneficent Action, and in your cool

Mornings you will be more happy with the Reflection of having made any one Person so, who without your Assistance would have been miserable, than in the Enjoyments of all the Pleasures of Sense (which pall in the using) and of all the Pumps and gaudy Show of the World. Live within your Circumstances, by which Means you will have it in your Power to do good to others. Above all Things, continue in your Loyalty to his present Majesty and the Succession to the Crown, as by Law established. Look on that as the Basis of the civil and religious Liberty and Property of every Individual in the Nation. Prefer the Publick Interest to your own, wherever they interfere. Love your Family and your Children, when you have any; but never let your Regard for them drive you on the Rock I split upon, when on that Account I departed from my Principles, and brought the Guilt of Rebellion and civil and particular Desolation on my Head, for which I am now under the Sentence justly due to my Crime. Use all your Interest to get your Brother pardoned and brought home as soon as possible, that his Circumstances, and bad Influence of those he is among, may not induce him to accept of foreign Service, and lose him both to his Country and his Family. If Money can be found to support him, I wish you wou'd advise him to go to *Geneva*, where his Principles of Religion and Liberty will be confirmed, and where he may stay till you see if a Pardon can be procured him. As soon as Commodore *Barnet* comes home, enquire for your Brother *Billie*, and take Care of him on my Account. I must again recommend your unhappy Mother to you. Comfort her, and take all the Care you can of your Brothers: And may God of his infinite Mercy preserve, guide, and conduct you and them through all the Vicissitudes of this Life, and after it bring you

you to the Habitations of the Just, and make you happy in the Injoyment of himself to all Eternity.

N U M B. III.

To the KING's most Sacred Majesty.

*The humble Petition of William late Earl of
Kilmarnock,*

Sheweth,

THE Petitioner having met with the condemnation justly due to his crime, presumes, throwing himself at your Majesty's feet, to implore your Majesty's Royal Clemency, and, tho' very sensible that nothing can excuse or mitigate his crime, hopes he may be considered in your Majesty's eye, as an object of compassion and pity.

His family's constant attachment to the Revolution interest and that of your illustrious House, his father's zeal and activity in support of both, when attacked by your late Royal Father's enemies in 1715, his own appearing in arms (tho' then but young) under his father, the whole tenor of his conduct since that time, and the sentiments of duty and loyalty in which he has educated his eldest son, who now has the honour of bearing your Majesty's commission, tho' no diminution of his guilt, may yet let in a presumption, that he has offended more from rashness and the designs of wicked and ill-disposed persons, than from any principle of disaffection to your Majesty.

The Petitioner humbly begs leave to acquaint your Majesty, that he influenced neither tenant nor follower of his to assist or abet the Rebellion; but,
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on the contrary, that between the time of the battle of *Preston*, and his unhappy junction with the rebels, he went to the town of *Kilmarnock*, influenced its inhabitants, as far as he could, and by their means their neighbouring boroughs, to rise in arms for your Majesty's service; which had so good an effect, that 200 men of *Kilmarnock* appeared very soon in arms, and remained so all the winter at *Glasgow*, or other places as they were ordered. And even in the midst of his greatest delusion, when in arms against your sacred Majesty and your Authority, it was the Petitioner's constant care (as far as in his power) to protect your faithful subjects from injury in their persons or estates. He extended his care to such of your Majesty's troops as had the misfortune of falling into the hands of the rebels, both officers and private men finding better usage, and their condition rendered more supportable through his means, than it would otherwise have been; as many of them can, and the Petitioner believes will, testify when called upon.

The Petitioner was not taken, but surrendered himself at the battle of *Culloden*, having left those he was joined with, when they were got so far, that most if not all of them escaped, except himself, who from thence turned down to the ground where the dragoons were drawn up at a considerable distance, and this at a time when he might easily have made his escape, being near no body, nor any in pursuit of him. He chose submission as far preferable to obstinacy in rebellion. His first principles revived in his breast. He determined rather to run the risque of an ignominious death, as the atonement of his Treason, than to recur to and become dependent upon a foreign power, that power especially being the natural enemy of his country, and your Majesty the Father of it.

Under

Under these circumstances, S.I.R, it is, that the unhappy Petitioner (more so from remorse of having violated his allegiance to your Majesty, than from the sentence he lies under) dares to approach your Throne, and implore your Royal Mercy, and which he hopes for, as he can't reproach himself with any guilt precedent to this fatal breach of his duty.

N U M B. IV.

To his Royal Highness the PRINCE of
W A L E S.

*The humble Petition of William late Earl of
Kilmarnock,*

Sheweth,

THAT though the Petitioner met with the Condemnation justly due to his Crime, presumed to throw himself at his Majesty's Feet, and implore his Majesty's Royal Clemency; and, though very sensible that nothing can excuse or mitigate his Crime, hopes he may be considered by his Majesty as an Object of Compassion.

His Family's constant Attachment to the Revolution Interest, and that of your illustrious House; his Father's Zeal and Activity in Support of both, when attacked by his late Majesty's Enemies in 1715; His own appearing in Arms (though then but young) under his Father; the whole Tenor of his Conduct since that Time; and the Sentiments of Duty and Loyalty in which he has educated his eldest Son, who now has the Honour of bearing his Majesty's Commission, though no Diminution of his Guilt, may yet
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let in a Presumption, that he has offended, more from Rashness and the Designs of wicked and ill disposed Persons, and other Causes, than from any Principles of Disaffection to his Majesty.

The Petitioner humbly begs leave to acquaint your Royal Highness, That he influenced neither Tenant nor Follower of his to assist or abet the Rebellion. But on the contrary, That, between the Time of the Battle of *Preston*, and his unhappy Junction with the Rebels, he went to the Town of *Kilmarnock*, influenced the Inhabitants, as far as he could, and by their Means likewise influenced their neighbouring Boroughs, to rise in Arms for his Majesty's Service; which had so good an Effect, that 200 Men of *Kilmarnock* appeared very soon in Arms, and remained so all the Winter at *Glasgow*, or other Places, as they were ordered. And even in the Midst of his greatest Delusion, when in Arms against his sacred Majesty and his Authority, it was the Petitioner's constant Care (as far as in his Power) to protect his Majesty's faithful Subjects from Injury in their Persons or Estates. He extended his Care to such of his Majesty's Troops, as had the Misfortune of falling into the Hands of the Rebels; both Officers and private Men finding better Usage, and their Condition rendered more supportable, through his Means, than it would otherwise have been; as many of them can, and, the Petitioner believes, will testify, when called upon.

The Petitioner was not taken, but surrendered himself at the Battle of *Culloden*, having left those he was joined with, when they were got so far, that most, if not all of them escaped, except himself; who from thence turned down to the Ground where the Dragoons were drawn up at a considerable Distance; and this at a Time when he might easily have made his Escape, being near no Body, nor
any

any in Pursuit of him. He chose Submission, as far preferable to Obstinacy in Rebellion. His first Principles revived in his Breast. He determined rather to run the Risk of an ignominious Death, as the Atonement of his Treason, than to recur to, and become dependant upon a foreign Power, the natural Enemy of his Country, and his Majesty, the Father of it.

Your Petitioner therefore begs leave, to implore your Royal Highness's Intercession with his Majesty in his Behalf, for a Life, which always has been, till this unhappy Interruption, and if spared, shall be spent in the Service of his Majesty, of your Royal Highness, and your august House; and in the most fervent Prayers for the Happiness and Prosperity of your illustrious Family.

NUMB. V:

To his Royal Highness the DUKE.

*Petition of William late Earl of Kilmarnock,
Prisoner in the Tower of London, under
Sentence of Death.*

Humbly sheweth,

THAT your Petitioner is already, on his acknowledgment, convicted of the greatest of all crimes, that of High Treason, by Rebellion against his most Sacred Majesty and his country, and has received the sentence of death justly due.

Your Petitioner has heard your Royal Highness was informed, that he was guilty of other aggra-
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vating crimes, which alone would render him an object of horror and detestation to all good men, tho' the guilt of Rebellion had not been added to them, that of advising the putting to death those were prisoners before the battle of *Culloden*; and advising or approving of the bloody and barbarous order for giving no quarter to his Majesty's troops at that battle.

Your Petitioner begs leave to assure your Royal Highness, that he never gave, or had any opportunity to give such advice. That he never was at a council, while he was so unhappy as to be engaged in the Rebellion, except one at *Darby*; for which he appeals to any in or about *London*, who may know, if ever he was seen at one.

Cruelty was never a part of your Petitioner's character, either in the former part of his life, or during his engagement with the rebels; and many prisoners, all he had access to, will testify that his behaviour to, and care of them, shew'd a very different disposition. If ever there was such a proposal made, with respect to the prisoners, your Petitioner must have fallen under the imputation of it, by a mistake of names, he himself having never heard of it.

For the order to give no quarter your Petitioner likewise protests he never knew or heard of any such thing, till he was some days a prisoner at *Inverness*; nor could he give credit to the report of it, till he was assured your Royal Highness had got the original order, signed, *George Murray*. And the Petitioner presumes, that order must have been given by the person who sign'd it of himself; for all orders that ever came to your Petitioner's hands, were signed by Mr. *Soulevan*.

Your Petitioner most humbly intreats your Royal Highness, out of your princely justice and com-
passion

passion, for an unfortunate man, already unhappy enough from his consciousness of the crime he is justly condemned for, to entertain no such sentiments of him as would aggravate the odium of his memory, and add to the guilt of his publick offence, by private injuries in the conduct of it. And that your Royal Highness would be pleased to inform yourself of the truth of what is above humbly represented, from those who may best know, and if it shall appear, or be presumeable, that your Royal Highness's information has not been well grounded, or that any mistake of names has been the cause of it; let no more be imputed to the Petitioner than he justly deserves. Let not his character suffer for the faults of others; and cruelty and inhumanity, without ground, be added to his publick crime of Rebellion.

And if your Royal Highness shall, upon farther examination, find reason to believe your Petitioner innocent of these malicious and detestable sentiments, he humbly begs leave to implore your Royal Highness's intercession with his Majesty in his behalf, for a life which always has been, till this unhappy interruption, and shall, in all that may remain of it, be spent in the service of his Majesty, your Royal Highness, and your august House; and in the most fervent prayers for the happiness and prosperity of your illustrious Family.

F I N I S.

Just Publish'd,
Printed for J. NOON, at the White Hart, in Cheap-
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